

HOUSE BILL No. 1395

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Statewide 911 services. Provides that a majority of members of a local public safety communications commission that collects and processes criminal justice information must represent criminal justice agencies. Provides that the executive director of the department of homeland security serves as the chairperson of the statewide 911 board. (Current law provides that the treasurer of state serves as chairperson of the board.) Increases the statewide 911 fee for a standard user from \$0.90 to \$1. Provides that an interlocal agreement for the operation of a PSAP must be amended not later than December 31, 2015, to require a political subdivision that is a party to the interlocal agreement to pay for at least 50% of the costs associated with dispatching emergency services to respond to 911 calls that originate within the political subdivision. Extends the sunset of the statewide 911 fee from June 30, 2015, to June 30, 2020. Makes a technical correction.

Effective: July 1, 2015.

Soliday

January 14, 2015, read first time and referred to Committee on Government and Regulatory Reform.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1395

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-15-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) The board is the
3 governing body of the district.
4 (b) The board may do the following:
5 (1) Finance, purchase, acquire, lease, erect, install, construct,
6 equip, upgrade, operate, and maintain facilities.
7 (2) Sue, be sued, plead, and be impleaded.
8 (3) Condemn, appropriate, lease, rent, purchase, and hold any real
9 or personal property needed or considered useful in connection
10 with facilities.
11 (4) Acquire real or personal property by gift, devise, or bequest,
12 and hold, use, or dispose of that property for purposes authorized
13 by this chapter.
14 (5) Design, order, contract for, construct, and equip any facilities.
15 (6) Employ architects, engineers, attorneys, auditors, clerks,



1 construction managers, and other employees necessary for the
2 financing, erection, and equipping of facilities.

3 (7) Make and enter into all contracts and agreements necessary or
4 incidental to accomplishing the purposes of the district.

5 (c) In a county not having a consolidated city, the board shall
6 establish a public safety communications commission representing the
7 public safety agencies that are served by the district. The members of
8 this commission are:

9 (1) one (1) person appointed by the county executive;

10 (2) one (1) person appointed by the county fiscal body;

11 (3) one (1) person appointed by the executive of each city in the
12 district; and

13 (4) the county sheriff.

14 Members serve for four (4) year terms. The county legislative body
15 shall provide by ordinance for the length of each initial term so that the
16 result is staggered terms for commission members. **If the commission
17 collects and processes criminal justice information, a majority of
18 the members must represent criminal justice agencies.**

19 (d) In a county not having a consolidated city, the chief law
20 enforcement and fire safety officers of each participating unit shall
21 constitute a technical advisory committee to advise the board and the
22 public safety communications commission upon request.

23 (e) In a county not having a consolidated city, the commission
24 established under this section shall operate any public safety
25 communications system established under this chapter. In a county
26 having a consolidated city, the board shall operate any public safety
27 communications system established under this chapter.

28 SECTION 2. IC 36-8-16.7-24, AS ADDED BY P.L.132-2012,
29 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2015]: Sec. 24. (a) The statewide 911 board is established to
31 develop, implement, and oversee the statewide 911 system. The board
32 is a body corporate and politic, and though it is separate from the state,
33 the exercise by the board of its powers constitutes an essential
34 governmental function.

35 (b) The following recommendations must be made to the governor
36 concerning the membership of the board:

37 (1) The executive committees of:

38 (A) the Indiana chapter of the National Emergency Number
39 Association (NENA); and

40 (B) the Indiana chapter of the Association of Public Safety
41 Communication Officials International (APCO);

42 shall jointly recommend three (3) individuals, at least one (1) of



- 1 whom must have budget experience at the local level.
- 2 (2) The facilities based CMRS providers authorized to provide
- 3 CMRS in Indiana shall jointly recommend one (1) individual.
- 4 (3) The Indiana Association of County Commissioners shall
- 5 recommend one (1) individual who is a county commissioner in
- 6 Indiana.
- 7 (4) The Indiana Sheriffs' Association shall recommend one (1)
- 8 individual who is a county sheriff in Indiana.
- 9 (5) The Indiana Telecommunications Association shall
- 10 recommend two (2) individuals as follows:
- 11 (A) One (1) individual representing a local exchange carrier
- 12 that serves less than fifty thousand (50,000) local exchange
- 13 access lines in Indiana.
- 14 (B) One (1) individual representing a local exchange carrier
- 15 that serves at least fifty thousand (50,000) local exchange
- 16 access lines in Indiana.
- 17 (6) The Indiana Cable Telecommunications Association shall
- 18 recommend one (1) individual representing a VOIP provider.
- 19 (7) The Indiana Association of Cities and Towns shall
- 20 recommend one (1) individual representing municipalities.
- 21 (c) The board consists of the following thirteen (13) members:
- 22 (1) ~~The treasurer of state or the treasurer's executive director of~~
- 23 ~~the department of homeland security or the executive~~
- 24 ~~director's designee. The treasurer of state or the treasurer's~~
- 25 ~~executive director of the department of homeland security or~~
- 26 ~~the executive director's designee is chairperson of the board for~~
- 27 ~~a term concurrent with the treasurer of state's term of office.~~
- 28 ~~service of the executive director of the department of~~
- 29 ~~homeland security. However, the treasurer of state's designee of~~
- 30 ~~the executive director of the department of homeland security~~
- 31 ~~serves at the pleasure of the treasurer of state. executive director.~~
- 32 (2) Three (3) members for a term of three (3) years who are
- 33 appointed by the governor after considering the recommendations
- 34 submitted under subsection (b)(1) by the executive committees of
- 35 NENA and APCO. At least one (1) member appointed under this
- 36 subdivision must have budget experience at the local level.
- 37 (3) One (1) facilities based CMRS member who is appointed by
- 38 the governor after considering the recommendation submitted
- 39 under subsection (b)(2) by the facilities based CMRS providers
- 40 authorized to provide CMRS in Indiana. A member appointed
- 41 under this subdivision may not be affiliated with the same
- 42 business entity as a member appointed under subdivision (6), (7),



- 1 or (8).
2 (4) One (1) county commissioner member appointed by the
3 governor after considering the recommendation submitted under
4 subsection (b)(3) by the Indiana Association of County
5 Commissioners.
6 (5) One (1) county sheriff member appointed by the governor
7 after considering the recommendation submitted under subsection
8 (b)(4) by the Indiana Sheriffs' Association.
9 (6) One (1) member who represents a local exchange carrier that
10 serves less than fifty thousand (50,000) local exchange access
11 lines in Indiana and who is appointed by the governor after
12 considering the recommendation of the Indiana
13 Telecommunications Association under subsection (b)(5)(A). A
14 member appointed under this subdivision may not be affiliated
15 with the same business entity as a member appointed under
16 subdivision (3), (7), or (8).
17 (7) One (1) member who represents a local exchange carrier that
18 serves at least fifty thousand (50,000) local exchange access lines
19 in Indiana and who is appointed by the governor after considering
20 the recommendation of the Indiana Telecommunications
21 Association under subsection (b)(5)(B). A member appointed
22 under this subdivision may not be affiliated with the same
23 business entity as a member appointed under subdivision (3), (6),
24 or (8).
25 (8) One (1) member who represents a VOIP provider and who is
26 appointed by the governor after considering the recommendation
27 of the Indiana Cable Telecommunications Association under
28 subsection (b)(6). A member appointed under this subdivision
29 may not be affiliated with the same business entity as a member
30 appointed under subdivision (3), (6), or (7).
31 (9) One (1) member who represents municipalities and is
32 appointed by the governor after considering the recommendation
33 of the Indiana Association of Cities and Towns submitted under
34 subsection (b)(7).
35 (10) The state fire marshal or the state fire marshal's designee.
36 (11) The superintendent of the state police department or the
37 superintendent's designee.
38 (d) This subsection applies to a member appointed by the governor
39 under subsection (c)(2) through (c)(9). The governor shall ensure that
40 the terms of the initial members appointed by the governor are
41 staggered so that the terms of not more than five (5) members expire in
42 a single calendar year. After the initial appointments, subsequent



1 appointments shall be for three (3) year terms. A vacancy on the board
 2 shall be filled for the vacating member's unexpired term in the same
 3 manner as the original appointment, and a member of the board is
 4 eligible for reappointment. In making an appointment under subsection
 5 (c)(2) through (c)(9), the governor shall take into account the various
 6 geographical areas of Indiana, including rural and urban areas. A
 7 member appointed by the governor serves at the pleasure of the
 8 governor.

9 (e) A member must be a resident of Indiana.

10 (f) A member may not vote by proxy.

11 SECTION 3. IC 36-8-16.7-30, AS ADDED BY P.L.132-2012,
 12 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2015]: Sec. 30. (a) The state board of accounts shall audit the
 14 fund on an annual basis to determine whether the fund is being
 15 managed in accordance with this chapter. For each of the two (2) state
 16 fiscal years ending:

17 ~~(A)~~ (1) June 30, 2013; and

18 ~~(B)~~ (2) June 30, 2014;

19 the state board of accounts shall submit, not later than November 1 of
 20 each year during which the particular state fiscal year ends, a report of
 21 the audit required by this subsection to the budget committee for the
 22 budget committee's review. A report submitted under this subsection
 23 must be in an electronic format under IC 5-14-6.

24 (b) On an annual basis, and in conjunction with the board's review
 25 under section 38(d) of this chapter of the state board of accounts'
 26 annual audit of PSAPs, the board shall review 911 service in Indiana,
 27 including the collection, disbursement, and use of the statewide 911 fee
 28 assessed under section 32 of this chapter. The purpose of the review is
 29 to ensure that the statewide 911 fee:

30 (1) does not exceed the amount reasonably necessary to provide
 31 adequate and efficient 911 service; and

32 (2) is used only for the purposes set forth in this chapter.

33 (c) For each of the two (2) calendar years ending:

34 ~~(A)~~ (1) December 31, 2013; and

35 ~~(B)~~ (2) December 31, 2014;

36 the board shall submit, not later than March 1 of the year immediately
 37 following the particular calendar year, a summary report of the board's
 38 findings under the review required by subsection (b) to the budget
 39 committee for the budget committee's review. A report submitted under
 40 this subsection must be in an electronic format under IC 5-14-6.

41 SECTION 4. IC 36-8-16.7-32, AS AMENDED BY P.L.107-2014,
 42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2015]: Sec. 32. (a) Except as provided in subsections (c) and
 2 (e), and subject to subsection (b) and section 48(e) of this chapter, the
 3 board shall assess a monthly statewide 911 fee on each standard user
 4 that is a customer having a place of primary use in Indiana at a rate
 5 that:

6 (1) ensures full recovery of the amount needed for the board to
 7 make distributions to county treasurers consistent with this
 8 chapter; and

9 (2) provides for the proper development, operation, and
 10 maintenance of a statewide 911 system.

11 The amount of the ~~initial~~ fee assessed under this subsection is ~~ninety~~
 12 ~~cents (\$0.90)~~: **one dollar (\$1)**.

13 (b) The board may adjust the statewide 911 fee to ensure adequate
 14 revenue for the board to fulfill the board's duties and obligations under
 15 this chapter, subject to the following:

16 (1) The fee may not be raised or lowered more than one (1) time
 17 in a calendar year.

18 (2) The fee:

19 (A) may not be raised by an amount that is less than or equal
 20 to ten cents (\$0.10) without review by the budget committee;
 21 and

22 (B) may not be raised or lowered by an amount that is more
 23 than ten cents (\$0.10) without legislative approval.

24 (c) The fee assessed under this section does not apply to a prepaid
 25 user in a retail transaction under IC 36-8-16.6.

26 (d) An additional fee relating to the provision of 911 service may
 27 not be levied by a state agency or local unit of government. An
 28 enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is not
 29 considered an additional fee relating to the provision of wireless 911
 30 service for purposes of this section.

31 (e) A user is exempt from the fee if the user is any of the following:

32 (1) The federal government or an agency of the federal
 33 government.

34 (2) The state or an agency or instrumentality of the state.

35 (3) A political subdivision (as defined in IC 36-1-2-13) or an
 36 agency of a political subdivision.

37 (4) A user that accesses communications service solely through
 38 a wireless data only service plan.

39 (f) This subsection applies to a provider that is designated by the
 40 Indiana utility regulatory commission as an eligible
 41 telecommunications carrier for purposes of receiving reimbursement
 42 from the universal service fund through the administrator designated



1 by the Federal Communications Commission. A provider:

2 (1) is not considered an agency of the federal government for
3 purposes of the exemption set forth in subsection (e); and

4 (2) is liable for the monthly statewide 911 fee assessed under
5 subsection (a) with respect to communications service provided
6 by the provider in its capacity as an eligible telecommunications
7 carrier.

8 SECTION 5. IC 36-8-16.7-47, AS ADDED BY P.L.132-2012,
9 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 47. (a) For purposes of this section, a PSAP
11 includes a public safety communications system operated and
12 maintained under IC 36-8-15.

13 (b) As used in this section, "PSAP operator" means:

14 (1) a political subdivision; or

15 (2) an agency;

16 that operates a PSAP. The term does not include any entity described
17 in subsection (c)(1) through (c)(3).

18 (c) Subject to subsection (d), after December 31, 2014, a county
19 may not contain more than two (2) PSAPs. However, a county may
20 contain one (1) or more PSAPs in addition to the number of PSAPs
21 authorized by this section, as long as any additional PSAPs are
22 operated:

23 (1) by a state educational institution;

24 (2) by an airport authority established for a county having a
25 consolidated city; or

26 (3) in a county having a consolidated city, by an excluded city (as
27 defined in IC 36-3-1-7).

28 (d) If, on March 15, 2008, a county does not contain more than one
29 (1) PSAP, not including any PSAP operated by an entity described in
30 subsection (c)(1) through (c)(3), an additional PSAP may not be
31 established and operated in the county on or after March 15, 2008,
32 unless the additional PSAP is established and operated by:

33 (1) a state educational institution;

34 (2) in the case of a county having a consolidated city, an airport
35 authority established for the county; or

36 (3) the municipality having the largest population in the county or
37 an agency of that municipality.

38 (e) Before January 1, 2015, each PSAP operator in a county that
39 contains more than the number of PSAPs authorized by subsection (c)
40 shall enter into an interlocal agreement under IC 36-1-7 with every
41 other PSAP operator in the county to ensure that the county does not
42 contain more than the number of PSAPs authorized by subsection (c)



- 1 after December 31, 2014.
- 2 (f) An interlocal agreement required under subsection (e) may
3 include as parties, in addition to the PSAP operators required to enter
4 into the interlocal agreement under subsection (e), any of the following
5 that seek to be served by a county's authorized PSAPs after December
6 31, 2014:
- 7 (1) Other counties contiguous to the county.
8 (2) Other political subdivisions in a county contiguous to the
9 county.
10 (3) Other PSAP operators in a county contiguous to the county.
- 11 (g) An interlocal agreement required under subsection (e) must
12 provide for the following:
- 13 (1) A plan for the:
14 (A) consolidation;
15 (B) reorganization; or
16 (C) elimination;
17 of one (1) or more of the county's PSAPs, as necessary to ensure
18 that the county does not contain more than the number of PSAPs
19 authorized by subsection (c) after December 31, 2014.
- 20 (2) A plan for funding and staffing the PSAP or PSAPs that will
21 serve:
- 22 (A) the county; and
23 (B) any areas contiguous to the county, if additional parties
24 described in subsection (f) participate in the interlocal
25 agreement;
26 after December 31, 2014.
- 27 (3) Subject to any applicable state or federal requirements,
28 protocol to be followed by the county's PSAP or PSAPs in:
- 29 (A) receiving incoming 911 calls; and
30 (B) dispatching appropriate public safety agencies to respond
31 to the calls;
32 after December 31, 2014.
- 33 (4) Any other matters that the participating PSAP operators or
34 parties described in subsection (f), if any, determine are necessary
35 to ensure that the county does not contain more than the number
36 of PSAPs authorized by subsection (c) after December 31, 2014.
- 37 (h) This section may not be construed to require a county to contain
38 a PSAP.
- 39 (i) After December 31, 2014, if a county contains more than the
40 number of PSAPs authorized by subsection (c), the county may not
41 receive a distribution under section 37 of this chapter until the county
42 complies with subsection (c).



1 **(j) An interlocal agreement required under subsection (e) must**
 2 **be amended not later than December 31, 2015, to require a political**
 3 **subdivision that is a party to the interlocal agreement to assume**
 4 **responsibility for at least fifty percent (50%) of the costs associated**
 5 **with dispatching appropriate public safety agencies to respond to**
 6 **911 calls that originate within the jurisdiction of the political**
 7 **subdivision.**

8 SECTION 6. IC 36-8-16.7-48, AS ADDED BY P.L.132-2012,
 9 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2015]: Sec. 48. (a) The budget committee shall review the
 11 statewide 911 system governed by this chapter for the two (2) calendar
 12 years ending:

- 13 (1) December 31, 2013; and
 14 (2) December 31, 2014.

15 (b) In conducting the review required by this section, the budget
 16 committee may examine the following:

- 17 (1) Whether the fund is being administered by the board in
 18 accordance with this chapter. In performing a review under this
 19 subdivision, the budget committee may consider the audit reports
 20 submitted to the budget committee by the state board of accounts
 21 under section 30(a) of this chapter.
 22 (2) The collection, disbursement, and use of the statewide 911 fee
 23 assessed under section 32 of this chapter. In performing a review
 24 under this subdivision, the budget committee may:

- 25 (A) examine whether the statewide 911 fee:
 26 (i) is being assessed in an amount that is reasonably
 27 necessary to provide adequate and efficient 911 service; and
 28 (ii) is being used only for the purposes set forth in this
 29 chapter; and
 30 (B) consider:
 31 (i) the reports submitted to the budget committee by the
 32 board under section 30(c) of this chapter; and
 33 (ii) the audit reports submitted to the budget committee by
 34 the state board of accounts under section 38(e) of this
 35 chapter.

36 (3) The report submitted to the budget committee by the Indiana
 37 advisory commission on intergovernmental relations under
 38 IC 4-23-24.2-5(b).

39 (4) Any other data, reports, or information the budget committee
 40 determines is necessary to review the statewide 911 system
 41 governed by this chapter.

42 (c) Subject to section 42 of this chapter, the board, the state board



1 of accounts, political subdivisions, providers, and PSAPs shall provide
 2 to the budget committee all relevant data, reports, and information
 3 requested by the budget committee to assist the budget committee in
 4 carrying out its duties under this section.

5 (d) After conducting the review required by this section, the budget
 6 committee shall, not later than June 1, 2015, report its findings to the
 7 legislative council. The budget committee's findings under this
 8 subsection:

9 (1) must include a recommendation as to whether the statewide
 10 911 fee assessed under section 32 of this chapter should continue
 11 to be assessed and collected under this chapter after June 30,
 12 ~~2015~~; **2020**; and

13 (2) if the budget committee recommends under subdivision (1)
 14 that the statewide 911 fee assessed under section 32 of this
 15 chapter should continue to be assessed and collected under this
 16 chapter after June 30, ~~2015~~; **2020**, may include recommendations
 17 for the introduction in the general assembly of any legislation that
 18 the budget committee determines is necessary to ensure that the
 19 statewide 911 system governed by this chapter is managed in a
 20 fair and fiscally prudent manner.

21 A report to the legislative council under this subsection must be in an
 22 electronic format under IC 5-14-6.

23 (e) If the budget committee does not recommend in its report under
 24 subsection (d) that the statewide 911 fee assessed under section 32 of
 25 this chapter should continue to be assessed and collected under this
 26 chapter after June 30, ~~2015~~; **2020**, the statewide 911 fee assessed under
 27 section 32 of this chapter expires July 1, ~~2015~~; **2020**, and may not be
 28 assessed or collected after June 30, ~~2015~~; **2020**.

